

EXHIBIT

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House Chambers Floor Debate, 2nd

March 21, 2011

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2011 (82R) SB 14

3.21.11 HOUSE CHAMBERS FLOOR DEBATE

2ND READING

MARCH 21, 2011

Transcribed by Rhonda Howard, CSR
April 23, 2012

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1 THE CLERK: SB-14 by Fraser relating
2 to requirements to vote including presenting proof
3 of identification, providing criminal penalties.

4 THE SPEAKER: Chair recognizes
5 Representative Harless.

6 REPRESENTATIVE HARLESS: Thank you,
7 Mr. Speaker, Members.

8 The requirement of photo I.D. is becoming
9 all but necessary in the modern age. Photo I.D.s
10 are required to drive a car, buy alcohol or
11 cigarettes, to obtain a hunting or fishing license,
12 to open a bank account, to purchase medical
13 prescriptions, to obtain most health or dental care
14 and to rent a hotel room or a car.

15 The Appellant Court [sic] in the Indiana
16 photo voter I.D. case, Crawford versus Marion
17 County, stated, "It is exceedingly difficult to
18 maneuver in today's America without a photo I.D.
19 And, as a consequence, the vast majority of adults
20 have such I.D. Ballot access should have at least
21 the same integrity as renting a movie, boarding a
22 commercial plane or cashing a check."

23 The fact that states across the nation are
24 passing voter I.D. laws is proof enough that the
25 public's concern regarding the potential of voter

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1 fraud. While there is, and perhaps will always be,
2 a disagreement regarding the extent of the voter
3 fraud, the lack of public confidence in our voting
4 system cannot be questioned.

5 People who lack confidence in the election
6 system see no reason to show up and vote. There is
7 potential for fraud in registration, in-person
8 voting and counting the ballots.

9 SB-14 is a simple, narrowly-crafted piece
10 of legislation that only addresses one type of
11 potential fraud, in-person voting.

12 SB-14 is similar to Georgia's photo I.D.,
13 which was approved by the Department of Justice, and
14 Indiana's photo I.D., which was upheld by the
15 Supreme Court.

16 In upholding Indiana's photo I.D. law the
17 Supreme Court stated, "Confidence in the integrity
18 of our election process is essential to the
19 functioning of our participatory democracy. Voter
20 fraud drives honest citizens out of the democratic
21 process and breeds distrust of our government.
22 Voters who fear their legitimate votes will be
23 outweighed by fraudulent ones will feel
24 disenfranchised."

25 This bill is in compliance with the U.S.

1 Supreme Court decision which upheld the Indiana
2 voter I.D. legislation, because it deters and
3 detects fraud. It protects the public's confidence
4 in elections. It counts only eligible voters'
5 votes.

6 It also complies with the Supreme Court
7 decision, because it offsets the proof on voters by
8 providing free access to free photo I.D. cards,
9 allowing for provisional ballots and absentee
10 ballots, ensuring that obtaining a photo I.D. is no
11 more burdensome or inconvenient than the usual act
12 of voting, and provides exceptions for elderly,
13 disabled or indigent voters.

14 SB-14 would require you -- a voter to show
15 a photo I.D. when voting in person. The acceptable
16 I.D.s include cards issued by the DPS, driver's
17 license or I.D. card, a military pass -- I.D., a
18 passport or a concealed handgun license. These
19 forms of I.D. must be current or no more than 60
20 days expired. A current citizen's certificate with
21 a photo is also an acceptable form of
22 identification.

23 Voters who cannot produce an acceptable
24 form of photo I.D. will be allowed to cast a
25 provisional ballot. That ballot will be counted if

1 the voter returns within six days with the photo
2 I.D.

3 There are exceptions to the photo I.D.
4 legislation, which include people who are 70 years
5 old or older as of January 1st, 2012. They may
6 continue to vote with their voter registration card.

7 Indigent people and people with religious
8 objections to be photographed may cast a provisional
9 ballot on election day and return to the registrar
10 within six days with a signed affidavit confirming
11 their exempt status.

12 And voters who are disabled and provide
13 written documentation from the Social Security
14 Administration or the Veterans Affairs Department
15 verifying their [sic] are -- they are receiving
16 benefits due to the disability and the voter does
17 not have one of the other acceptable forms of I.D.
18 for voting.

19 SB-14 would provide statewide extensive
20 training and notification of the changes in
21 requiring a photo I.D. to vote. It would provide
22 for free DPS-issued I.D.s to registered voters who
23 request an I.D. who do not have another acceptable
24 form of identification, photo identification for
25 voting. It allows a voter to cast a ballot if the

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1 name on the I.D. is substantially similar to the
2 name on the voter's list.

3 In conclusion, in two states with strict
4 photo I.D. requirements, voter turnout has increased
5 since the photo I.D. laws were enacted. This tells
6 me that photo voter I.D. requirements increase the
7 public's confidence in the election process, which
8 has been shown in these states to increase voter
9 participation.

10 Although way -- we may disagree on how
11 much voter fraud takes place, just one fraudulent
12 vote effectively steals one legitimate vote.
13 Elections are too important to leave this
14 unprotected.

15 This legislation is not a radical concept.
16 It is just asking that every voter verify you are
17 who you say you are before casting a vote.

18 THE SPEAKER: Mr. Anchia, for what
19 purpose?

20 REPRESENTATIVE ANCHIA: Will the
21 gentle lady yield, please?

22 THE SPEAKER: Will the lady yield?

23 REPRESENTATIVE HARLESS: I will.

24 REPRESENTATIVE ANCHIA:

25 Representative Harless --

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1 REPRESENTATIVE HARLESS: Hi.

2 REPRESENTATIVE ANCHIA: -- good
3 afternoon. I wanted to ask you a couple questions
4 about Senate Bill 14 and voter impersonation.

5 You alluded to the fact that -- that this
6 bill deals with one specific type of voter fraud.
7 Correct?

8 REPRESENTATIVE HARLESS: Yes,
9 potential voter fraud.

10 REPRESENTATIVE ANCHIA: And that's --
11 and that's -- that's voter impersonation?

12 REPRESENTATIVE HARLESS: Yes.

13 UNIDENTIFIED REPRESENTATIVE: And how
14 does -- describe how voter impersonation works.

15 REPRESENTATIVE HARLESS: Someone
16 shows up to the poll with a voter's registration
17 card that may not be theirs and casts a vote -- a
18 vote with that card.

19 REPRESENTATIVE ANCHIA: How -- how
20 often does that happen in the State of Texas, do you
21 think?

22 REPRESENTATIVE HARLESS: I'm not
23 advised.

24 REPRESENTATIVE ANCHIA: Do -- do you
25 have a guess? You -- you've gone back and looked at

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1 interim reports and studies on this issue.

2 REPRESENTATIVE HARLESS: Under our
3 current law there's not really tools necessary to
4 stop this type of in-voter fraud. In fact, most of
5 this in-voter fraud we may not even know about until
6 after the election occurs.

7 We have heard from many witnesses over the
8 last couple sessions who have testified that voter
9 impersonation in which people's I.D.s or voter
10 registration card have been used and false votes
11 cast in that person's name is not uncommon.

12 REPRESENTATIVE ANCHIA: And did --
13 did they provide any documented cases, or was it
14 anecdotal?

15 REPRESENTATIVE HARLESS: It --
16 there -- there was information from the Secretary of
17 State, but really we don't have the tools to
18 effectively deter or detect this type of voter
19 fraud.

20 REPRESENTATIVE ANCHIA: I find it
21 interesting that you say we don't have the tools in
22 current law.

23 Are you pretty familiar with the Election
24 Code?

25 REPRESENTATIVE HARLESS: A little.

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1 I've learned more about it the last few months.

2 REPRESENTATIVE ANCHIA: Me, too. Me,
3 too.

4 What is the penalty for voter
5 impersonation?

6 REPRESENTATIVE HARLESS: As addressed
7 in this bill?

8 REPRESENTATIVE ANCHIA: No, no.
9 Current law.

10 REPRESENTATIVE HARLESS: I think --

11 REPRESENTATIVE ANCHIA: It's under
12 Section 6401 -- spot 012 of the Election Code.

13 REPRESENTATIVE HARLESS: And it would
14 be a second-degree felony if they're caught.

15 REPRESENTATIVE ANCHIA: Okay. So
16 current -- under current law, just to be clear so
17 the membership knows, it's actually a third-degree
18 felony, so it's two to ten years in prison and up to
19 \$10,000 worth of fine.

20 And in the Committee substitute that we
21 have before us, it's actually bumped up to a
22 third-degree felony. So there's a -- a penalty
23 enhancement from third-degree to second-degree, so
24 it increases in severity. And then there's also an
25 increase -- a correlating increase with the

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1 attempted voter impersonation that gets bumped up,
2 as well, from -- from its current law -- for its --
3 from it's current penalty to 180 days -- it's a
4 state jail felony, 180 days to two years in state
5 jail and an optional fine of \$10,000.

6 So there are some pretty severe penalties
7 both in current law and in your proposed bill.
8 Correct? A felony.

9 REPRESENTATIVE HARLESS: Yes.

10 REPRESENTATIVE ANCHIA: And in terms
11 of -- of risk/reward, how many -- how many votes can
12 you change with one case of voter impersonation,
13 just --

14 REPRESENTATIVE HARLESS: How many
15 votes can you change?

16 REPRESENTATIVE ANCHIA: Yeah.

17 See, you were very concerned about a -- a
18 legitimate voter being disenfranchised by someone
19 conducting voter impersonation. Is -- is -- is
20 it -- is it a scalable model, or when you commit an
21 act of voter impersonation how many votes do you
22 change?

23 REPRESENTATIVE HARLESS:

24 Representative Anchia, this is about restoring
25 confidence in the election process --

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1 REPRESENTATIVE ANCHIA: No. I
2 understand that.

3 REPRESENTATIVE HARLESS: -- one
4 person, one vote. And to get off on the fraud
5 argument and how often it happens or if it even
6 happens, we will never agree on that.

7 REPRESENTATIVE ANCHIA: Well, I --
8 I --

9 REPRESENTATIVE HARLESS: The purpose
10 of this legislation is that when you show up to
11 vote, you prove who you say you are. It's a very
12 simple, narrow-defined bill. And we can stay here
13 all day long discussing the fraud, but that is not
14 what this bill is about. This bill is about
15 protecting, deterring and detecting possible fraud
16 in elections.

17 REPRESENTATIVE ANCHIA: Sure. I'm --
18 I'm trying -- I'm trying to get at that, because you
19 talked about voter -- voter impersonation in your
20 layout. And I know -- I know the narrative changes,
21 because when -- when -- you know, we've studied this
22 thing for eight years now -- almost six years --
23 seven years, actually, and we haven't been able to
24 find widespread voter impersonation.

25 Clearly to support the bill your narrative

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1 has to change, so now it's about the integrity of
2 elections. I understand that.

3 But when -- in going through the
4 current -- you -- you said in your layout the -- we
5 currently don't have tools to prevent this. So I
6 was trying to get at the tools that are in current
7 state law.

8 And the first one is sort of the deterrent
9 effect of risking a state jail felony, two to ten
10 years in jail, \$10,000 worth of -- of fines to
11 change, what, one vote. Right? So we're talking
12 about deterrent effect and risk. And my question to
13 you was is it scalable?

14 I mean, when you commit an act of voter
15 impersonation, how many votes do you change?

16 REPRESENTATIVE HARLESS: I think it's
17 possibly scalable. If you look at the
18 Representative Donna Howard's election and Dan Neil,
19 I think the decision was decided by, what, two
20 votes.

21 REPRESENTATIVE ANCHIA: Was there --
22 were there any occasions of voter impersonation
23 there?

24 REPRESENTATIVE HARLESS: I didn't
25 follow it that closely --

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1 REPRESENTATIVE ANCHIA: I believe
2 that there aren't.

3 REPRESENTATIVE HARLESS: -- but when
4 elections are won or lost on two votes we need to
5 put every check and balance we can to restore the
6 public's confidence. And not only does it restore
7 the public's confidence in the election, there's
8 been documented evidence in the two states that have
9 passed this more restrictive photo I.D. that voter
10 turnout increases. When people have confidence --

11 REPRESENTATIVE ANCHIA: Can --

12 REPRESENTATIVE HARLESS: -- they are
13 more apt to show up and vote.

14 REPRESENTATIVE ANCHIA: And those
15 talking points are terrific. Let -- let's try to
16 stay on voter impersonation. Right?

17 So you said you're not sure of -- of
18 how -- how often it occurs. You believe the tools
19 aren't in place. You acknowledge there's a pretty
20 significant penalty for doing it. Correct? A state
21 jail felony --

22 REPRESENTATIVE HARLESS: As should
23 be.

24 REPRESENTATIVE ANCHIA: -- is -- is
25 that -- yeah. As it should be, correct. So there's

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1 a pretty significant penalty for doing it.

2 Now, let's talk about voter impersonation
3 at the polling location. Who's typically at the
4 polling location?

5 REPRESENTATIVE HARLESS: As far as
6 administrators --

7 REPRESENTATIVE ANCHIA: Yeah, yeah.

8 REPRESENTATIVE HARLESS: -- or people
9 showing up to vote?

10 REPRESENTATIVE ANCHIA: Yeah. Under
11 the Election Code, who do you -- who -- who's
12 entitled to be at the -- at the polling location?

13 REPRESENTATIVE HARLESS: There -- the
14 election judge, election clerks, election officers.

15 REPRESENTATIVE ANCHIA: And -- and
16 it's your -- it's your -- it's your assertion today
17 that those people are powerless to stop voter
18 impersonation. Correct?

19 REPRESENTATIVE HARLESS: Powerless is
20 not the word I would use.

21 REPRESENTATIVE ANCHIA: You said
22 helpless earlier. Is that -- is that a better word?
23 They don't have the tools?

24 REPRESENTATIVE HARLESS: They need
25 some tools.

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1 REPRESENTATIVE ANCHIA: Okay. Well,
2 are you familiar with Section 32 spot 075 of the
3 Election Code?

4 REPRESENTATIVE HARLESS: I am not.

5 REPRESENTATIVE ANCHIA: Section
6 32.075 of the Election Code discusses the law
7 enforcement duties and powers of the presiding
8 judge, of an election judge. Do you know what they
9 are?

10 REPRESENTATIVE HARLESS: No.

11 REPRESENTATIVE ANCHIA: Okay.

12 REPRESENTATIVE HARLESS: But I know
13 you're going to tell me.

14 REPRESENTATIVE ANCHIA: Yeah, I -- I
15 will, because I -- I just want to clear up the fact
16 that you're concerned there are no tools.

17 Well, I'll -- I'll read from that portion
18 of the Election Code. "The presiding judge at a --
19 at a polling location can prevent violations of the
20 Election Code at the polling place. And in
21 performing those duties, the presiding judge has the
22 power of a State District Judge, including --
23 including the power to issue an arrest warrant."

24 Were you aware of that?

25 REPRESENTATIVE HARLESS: No.

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1 REPRESENTATIVE ANCHIA: Do you
2 think -- do you think issuing an arrest warrant to
3 stop some of this purported voter impersonation is a
4 powerful tool?

5 REPRESENTATIVE HARLESS: I think that
6 the testimony that we're heard and the articles that
7 have been reported on over the last few years, there
8 have been a number of election officers and election
9 judges that said there were people that came in to
10 vote, they had a voter registration, they returned
11 and voted again with a different voter registration,
12 and they felt they didn't have the tools
13 necessary --

14 REPRESENTATIVE ANCHIA: And -- and
15 none of those cases were documented. Right? None
16 of them.

17 REPRESENTATIVE HARLESS: They were
18 reported on.

19 REPRESENTATIVE ANCHIA: They -- they
20 were reported, maybe complaints --

21 REPRESENTATIVE HARLESS: Yes.

22 REPRESENTATIVE ANCHIA: -- possibly
23 investigated by the Attorney General, but none of
24 them ever documented or -- or conclusively
25 prosecuted. Correct?